

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

HEALTH CARE SERVICES CORPORATION,

Plaintiff,

vs.

Case No. 09-cv-1213 ACT/LFG

SOUTHWEST TRANE, and
PETERSON WATER TREATMENT,

Defendants

**DEFENDANT PETERSON WATER TREATMENT'S
OBJECTIONS TO PROPOSED EXHIBITS**

Defendant Peterson Water Treatment, by and through its attorneys, Allen, Shepherd, Lewis, Syra & Chapman, P.A., hereby submits its objections to trial exhibits proposed by Plaintiff Health Care Services, Inc. and Defendant Southwest Trane.

A. Objections to Plaintiff's Proposed Exhibits

Plaintiffs' proposed exhibits are not numbered at this point. Defendant will refer to them by deposition exhibit number or bates number.

1. Defendant Peterson objects to Depo Exhibit 17, Cosentini letter 04/05/2010 as hearsay; Fed. R. Evid. 802.

2. Defendant Peterson objects in part to Depo Exhibit 25, Villanueva email 08/06/2008. The statement contained in the email from Mr. Villanueva, who is a fact witness, that "Based on the meetings we have had with many experts in the field the damage was probably done at the time the system went into alarm and was probably compromised well before I arrived at 7:00 a.m." is inadmissible as hearsay, Fed. R. Evid. 802, and is not based on

personal knowledge. Fed. R. Evid. 602. If this line is redacted from the document, Defendant Peterson has no objection to the remainder of the exhibit.

3. Defendant Peterson objects to Depo Exhibit 48, Peterson Water Treatment proposal form, on grounds of relevance, Fed. R. Evid. 402 and confusion. Fed. R. Evid. 403.

B. Objections to Southwest Trane's Proposed Exhibits

Defendant Southwest Trane's exhibits are not numbered at this time. Defendant will refer to them by bates number.

1. Defendant Peterson objects in part to HCSC 000002, Villanueva email 08/06/2008. The statement contained in the email from Mr. Villanueva, who is a fact witness, that "Based on the meetings we have had with many experts in the field the damage was probably done at the time the system went into alarm and was probably compromised well before I arrived at 7:00 a.m." is inadmissible as hearsay, Fed. R. Evid. 802, and is not based on personal knowledge. Fed. R. Evid. 602. If this line is redacted from the document, Defendant Peterson has no objection to the remainder of the exhibit.

2. Defendant Peterson objects in part to HCSC 000107. Both Plaintiff HCSC and Defendant Peterson have listed this same exhibit but have redacted the bottom e-mail on HCSC 000107 referring to insurance. Fed. R. Evid. 411. Defendant Peterson does not object to the 8/22/08 e-mail on the top of the page from Matt Villanueva to Liz Carrillo.

WHEREFORE, Defendant Peterson Water Treatment respectfully requests the Court to sustain Peterson's objections and to exclude or limit admission of the foregoing exhibits.

Electronically Filed,

ALLEN, SHEPHERD, LEWIS, SYRA
& CHAPMAN, P.A.

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I HEREBY CERTIFY that on the 28th day of January 2011, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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